



6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R10-OAR-2016-0056; FRL-9978-47-Region 10]

#### **Air Plan Approval; OR; Infrastructure Requirements for the 2010 Nitrogen Dioxide, 2010 Sulfur Dioxide, and 2012 Fine Particulate Matter Standards**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** Whenever a new or revised National Ambient Air Quality Standard (NAAQS) is promulgated, the Clean Air Act requires states to submit a plan for the implementation, maintenance, and enforcement of the standard, commonly referred to as infrastructure requirements. The Environmental Protection Agency (EPA) is approving the Oregon State Implementation Plan (SIP) as meeting infrastructure requirements for the 2010 nitrogen dioxide, 2010 sulfur dioxide, and 2012 fine particulate matter NAAQS. The EPA is also approving, and incorporating by reference, rule changes made by the state to implement the fine particulate matter NAAQS, relevant to this infrastructure action, and the ozone NAAQS, unrelated to this action, but included for efficiency.

**DATES:** This final rule is effective **[insert date 30 days after date of publication in the Federal Register]**.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-R10-OAR-2016-0056. All documents in the docket are listed on the <https://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, e.g., CBI or other information the disclosure of which is restricted by statute. Certain other material, such as

copyrighted material, is not placed on the Internet and is publicly available only in hard copy form. Publicly available docket materials are available at <https://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

**FOR FURTHER INFORMATION CONTACT:** Kristin Hall at (206) 553-6357, or *hall.kristin@epa.gov*.

**SUPPLEMENTARY INFORMATION:** Throughout this document wherever “we,” “us,” or “our” is used, it is intended to refer to the EPA.

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### **I. Background Information**

On February 23, 2018, the EPA proposed to approve Oregon’s December 27, 2013, and October 20, 2015, SIP submissions as meeting certain infrastructure requirements of the Clean Air Act for the 2010 nitrogen dioxide (NO<sub>2</sub>), 2010 sulfur dioxide (SO<sub>2</sub>), and 2012 fine particulate matter (PM<sub>2.5</sub>) NAAQS (83 FR 8021). We also proposed to approve, and incorporate by reference, associated rule updates to implement the PM<sub>2.5</sub> NAAQS, and an unrelated rule update for the ozone NAAQS, submitted July 18, 2017. Please see our proposed rulemaking for further explanation and the basis for our finding (February 23, 2018, 83 FR 8021).

The public comment period for the EPA’s proposed action ended on March 26, 2018. We received 26 electronic comments submitted anonymously through <https://www.regulations.gov>. We reviewed the comments and we have determined that none are germane to this action.

Therefore, we are finalizing our action as proposed.

## **II. Final Action**

The EPA is approving Oregon's December 27, 2013, and October 20, 2015, SIP submissions as meeting specific infrastructure requirements of the Clean Air Act. We find that the Oregon SIP meets the following Clean Air Act section 110(a)(2) infrastructure elements for the 2010 NO<sub>2</sub>, 2010 SO<sub>2</sub>, and 2012 PM<sub>2.5</sub> NAAQS: (A), (B), (C), (D)(i)(II), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M).

We are also approving, and incorporating by reference at 40 CFR part 52, subpart MM, the following rule sections:

- OAR 340-202-0060 *Suspended Particulate Matter* (state effective October 16, 2015); and
- OAR 340-250-0030 *Definitions* (state effective October 16, 2015); and
- OAR 340-202-0090 *Ozone* (state effective July 13, 2017).

We note that the approval of OAR 340-202-0090 is unrelated and unnecessary for our infrastructure action. We are including it in this action for efficiency. This action is being taken under section 110 of the Clean Air Act.

## **III. Incorporation by Reference**

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of Oregon Administrative Rules related to ambient air quality standards described in section II. Final Action, and the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these materials generally available through <https://www.regulations.gov> and at the EPA Region 10 Office (please contact the person

identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by the EPA for inclusion in the state implementation plan, have been incorporated by reference by the EPA into that plan, are fully federally enforceable under sections 110 and 113 of the Clean Air Act as of the effective date of the final rulemaking of the EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.<sup>1</sup>

#### **IV. Statutory and Executive Order Reviews**

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Clean Air Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

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<sup>1</sup> 62 FR 27968 (May 22, 1997).

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and it will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [**insert date 60 days after date of publication in the Federal Register**]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: May 10, 2018.

Chris Hladick,  
Regional Administrator,  
Region 10.

For the reasons set forth in the preamble, 40 CFR part 52 is amended as follows:

**PART 52--APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

**Subpart MM--Oregon**

2. In §52.1970, table 2 in paragraph (c) is amended by revising the entries “202-0060”, “202-0090”, and “250-0030” to read as follows:

**§52.1970 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

**Table 2--EPA APPROVED OREGON ADMINISTRATIVE RULES (OAR)**

State citation	Title/subject	State effective date	EPA approval date	Explanations
<b>CHAPTER 340--DEPARTMENT OF ENVIRONMENTAL QUALITY</b>				
* * * * *				
<b>Division 202--Ambient Air Quality Standards and PSD Increments</b>				
* * * * *				
<b>Ambient Air Quality Standards</b>				
* * * * *				
202-0060	Suspended Particulate Matter	10/16/2015	[insert date of publication in the Federal Register], [insert Federal Register citation]	
* * * * *				



202-0090	Ozone	07/13/2017	[insert date of publication in the Federal Register], [insert Federal Register citation]	
* * * * *				
<b>Division 250--General Conformity</b>				
* * * * *				
250-0030	Definitions	10/16/2015	[insert date of publication in the Federal Register], [insert Federal Register citation]	
* * * * *				

\* \* \* \* \*

3. Section 52.1991 is amended by adding paragraphs (f) and (g) to read as follows:

**§52.1991 Section 110(a)(2) infrastructure requirements.**

\* \* \* \* \*

(f) The EPA approves Oregon's December 27, 2013, submission as meeting the following CAA section 110(a)(2) infrastructure elements for the 2010 nitrogen dioxide and 2010 sulfur dioxide NAAQS: (A), (B), (C), (D)(i)(II), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M).

(g) The EPA approves Oregon's October 20, 2015, submission as meeting the following CAA section 110(a)(2) infrastructure elements for the 2012 PM<sub>2.5</sub> NAAQS: (A), (B), (C), (D)(i)(II), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M).

[FR Doc. 2018-11058 Filed: 5/23/2018 8:45 am; Publication Date: 5/24/2018]